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Changing Landscape of Indian Mutual Fund Industry: Role of Regulators

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ABSTRACT

A mutual fund is an investment vehicle that offers multifaceted benefits such as risk minimisation through diversification, management of investors' funds in a professional manner, lesser cost, transparent mechanism, flexibility, easy accessibility, regulatory control, and liquidity. The savings of all types of investors are pooled by the mutual fund. These savings are then invested by fund managers in different securities with the twin objective of risk minimisation and return maximisation. In this way, mutual fund plays a productive role in the Indian economy. Investors are the backbone of the mutual fund industry. As such, protecting investors' interest for ensuring their spontaneous participation in mutual funds is essential. The regulatory framework of the mutual fund industry of India is a globally competitive one. The year 1991 is a milestone because the function of regulating mutual funds was given to the Securities and Exchange Board of India (SEBI) in March 1991. During the period from 2008 to 2021, the capital market regulator has taken certain investor-friendly measures which are discussed in this paper. Assets under Management (AUM) for the quarter ended 31st December 2019 was Rs. 26.54 lakh crore whereas the AUM for the same period of 2020 was Rs. 22.26 lakh crore. This shows a downfall in AUM which may be due to the COVID pandemic. The assets held by individual investors were 52.1% of industry assets in April 2020 while the same was 54.7% in April 2019. Another shocking incident in the Mutual Fund Industry of India due to the COVID-19 pandemic was the shutting down of six debt mutual fund schemes on 23.04.2020 by Franklin Templeton which shocked the investor community. It resulted in huge outflows of over Rs. 8,000 crores in April 2020. The RBI quickly intervened and the RBI announcement of Rs. 50,000 crore special package was made for the interest of the mutual fund investors. The research paper endeavours to focus on the investor-friendly initiatives of the Indian mutual fund regulator SEBI since its inception to the pandemic (COVID-19).

Keywords: *COVID-19; Mutual Fund; RBI; SEBI*

INTRODUCTION

A mutual fund has become a main form of investment because of its multifaceted benefits such as risk minimisation through diversification, management of investors' funds in a professional manner, lesser cost, transparent mechanism, flexibility, easy accessibility, regulatory control, and liquidity. The savings of all types of investors are pooled by the mutual fund. These savings are then invested by fund managers in different securities with the twin objective of risk minimisation and return maximisation. In this way, mutual fund plays a productive role in the Indian economy. To ensure the smooth functioning of the mutual fund industry, the interests of mutual fund investors must be protected because investors are the main pillars of the mutual fund industry. Investor-friendly measures by Indian mutual fund regulators over the years have given confidence to the investors and all types of investors across the globe are attracted to invest in the Indian Mutual Fund Industry. Protecting investors from potential loss and correcting the failures are the main two objectives of any regulatory body. Regulators should not change their views indiscriminately because such things can adversely affect investor confidence and may create instability in the market. Two types of cost are associated with regulation: 'Direct Cost' and 'Indirect Cost'. Direct cost consists of administration and implementation cost, whereas the indirect cost consists of loss of economic welfare because of restrictions on competition. For a developing country and emerging market like India, Cost-Benefit

Analysis (CBA) should be followed before formulating regulation.

Objective of the Study and Data Source

The study endeavours to focus on the investor-friendly initiatives of Indian mutual fund regulators since inception to the pandemic (COVID-19).

The study is exploratory in nature. The exploratory part of the research paper is based on the current literature available in the market on this issue in the form of books, reports, articles, research studies and websites.

LITERATURE REVIEW

Somashekar (2009) examines the SEBI Mutual Fund Regulation and points out the benefits of these regulations from the Indian perspective. The researcher has compared the performance of the funds governed by the Unit Trust of India (UTI) Act Regulations with that of the funds governed by the SEBI Regulations. It is observed that the funds governed by SEBI outperformed the funds governed by UTI over time. Vasudevan (2010) provides a critical assessment of SEBI's declaration to have a uniform exit load—a fee charged for early redemptions—for investments through the lump sum route as well as systematic investment plans (SIPs). Kamble (2013) examines the mechanisms of the regulator (SEBI) regarding mutual funds in India. The purpose and objective of this article are to study the meaning and nature of mutual funds, the procedure, the importance of SEBI and its mechanism in India, and also to analyse the growth of mutual funds in India. Burugula (2016) observes that some AMCs are engaged in the practice of "dividend stripping." Investors put their money into funds that announce big dividends. They pocket the dividend and show a reduction in NAV as the capital loss is adjusted against capital gains from other investments. SEBI has been looking into the matter seriously so that this practice cannot evade tax. Balachandran and Panjavarnam (2017) attempt to highlight the different rules and regulations associated with regulating mutual funds in India. According to the study, the SEBI has taken significant steps toward ensuring due diligence and transparency in all investment decisions, but the regulator should implement corporate disclosure norms over a shorter time frame. Singh (2019) focuses on mutual fund regulations in India. She also states that the use of cryptocurrency should be allowed in mutual fund investments so that it becomes easier for investors to make instant transactions, though the use of cryptocurrency is illegal according to the foreign norms of the country. Jain (2020) observes that the ever-increasing number of accounts under 'Systematic Investment Plan' (SIP) is an indicator of increasing investors' confidence in mutual funds in India.

DISCUSSION

Single Regulator versus Multiple Regulators

In India, financial markets are supervised by many regulators such as RBI, SEBI, Forward Market Commission (FMC), Insurance Regulatory and Development Authority (IRDA), Pension Fund Regulatory and Development Authority (PFRDA). In the case of multiple regulators, there lies a possibility of overlapping between their functions. As such, some experts opine that a single regulator can ensure avoiding such overlapping possibilities. They are of the view that a single financial regulator can facilitate well-organized resource allocation by devoting regulatory resources (both financial and human resources) to where they are most needed. Another advantage of a single regulatory system is that it can share information about various regulatory divisions, which will help a lot in preventing fraud.

But a look at developing countries reveals that specialised business firms and institutions dominate the market to a great extent. The objectives and focus of those firms and institutions are different. As such, in India, multiple financial regulators can be more effective in developing the market. Flexibility is an advantage of multiple financial regulators.

Background of Mutual Fund Regulators

Before 1991, there were insufficient rules and regulations for controlling the performance of the Indian

mutual fund industry. The Reserve Bank of India (RBI), in July 1989, came out with certain guiding principles to regulate all types of financial institutions including mutual funds. Later, in March 1991, the important function of regulating mutual funds in India was handed over to the SEBI. The SEBI initially formulated SEBI (Mutual Funds) Regulations 1993 and subsequently revised the existing regulations and circulated fresh guidelines entitled SEBI (Mutual Funds) Regulations 1996. From 1996 till date SEBI has traversed a journey of 24 years and the secondary markets have gone through various bull and bear phases. In protecting the interest of the investors, SEBI has taken various measures which have kept the Indian Mutual Fund Industry growing during this two and half decade as is evident from the AUM data which jumped from Rs. 25 crores in 1965 to Rs. 2,226,203 as of 31st March 2020.

Role of Regulatory Bodies in Indian Mutual Funds Industry

The three main functions of the SEBI, the capital market regulator, are (a) Protecting the investor community, (b) Promoting the development of the securities market, and (c) Regulating the securities market.

The SEBI has to play several crucial roles which are as follows:

- Regulatory Role: SEBI regulates the market intermediaries including rating agencies that come under the ambit of SEBI regulations. It has the power to seek any information from companies, institutions, and intermediaries to prohibit unfair and fraudulent trade practices.

- Role of Market Development: Educational and training programmes are conducted by the SEBI regularly to generate and magnify awareness amongst all the stakeholders. Research is also conducted by SEBI to regulate and develop the securities market and there also exists a dedicated SEBI website for investor protection.

- Compliance Role: If one is dissatisfied with any issues relating to market participants, one can take up the matter with SEBI and complaint forms are also available on the SEBI website.

- Punitive Role: SEBI can take correctional measures against anybody found guilty of protecting the investors and developing the securities.

Initiatives of SEBI

The regulatory landscape of mutual funds has witnessed dramatic changes throughout the world during the last few years starting from 2008. Perhaps, no other financial services sector has seen such major changes. India is no different in terms of regulatory reforms in case of mutual funds. The major initiatives of the SEBI for making the Indian Mutual Fund Industry investor-friendly are stated below:

Uniform Exit Load

SEBI has directed mutual funds to impose a uniform exit load for all the investments irrespective of the ticket size. It will lead to zero disparity among retail and institutional investors.

"ASBA"

SEBI's directive to introduce the Application Supported by Blocked Amount (ASBA) facility with effect from 1st October 2010 is an investor-friendly move because investors can earn interest on the amount blocked until mutual fund units are allotted to them.

No Dividend from Capital

Now, dividends can be declared by the fund houses only from booked profit on investment and not from the investor's money. It will result in a fall in the amount and frequency of dividends. As per regulation, dividends can be paid only out of realized gains. However, in some special cases (such as when the NAV of a fund is trading below the face value), the difference between the sale price and the face value will have to be debited to distributable reserve. When this reserve has become positive after adjusting the amount already debited to such reserve, the dividend can only be declared.

Investor Complaint Disclosure

Disclosing the nature of investors' complaints and resolution status of the same on the website of the fund houses and the website of the AMFI have been made compulsory in SEBI Regulations. These disclosures will also have to be made in the Annual Reports within two months of the close of the financial year.

Dividend in Rupee Terms

SEBI has directed that dividend must be declared in rupee terms and not in percentage terms to stop miss-selling of products by glorifying the percentage of dividend-pay-out to attract new investors.

Putting a Check on Dividend Stripping

Dividend stripping is the practice of buying units of mutual funds before the declaration of dividend and selling those units just after the dividend is received (when the NAV falls below the purchase price) to avoid tax. The regulator has taken measures to check such practices. The matter was also brought to the notice of Income Tax authorities. Accordingly, the provisions of the present Income Tax Act have disallowed the benefit of dividend stripping.

Shortening NFO period

Earlier the period for NFO Subscription was thirty days for open-ended funds and forty-five days for close-ended funds, but now the listing period of NFOs has been reduced to fifteen days. The allotment period is also reduced to five days from the earlier thirty days. This does not apply to ELSS schemes.

Listing of Mutual Funds on Stock Exchange

For making investments in mutual funds more convenient, the regulator allows the investors to use Stock Exchange platforms for mutual fund transactions. To widen the distribution network and to facilitate ease in the transaction, investors can now buy and redeem open-ended mutual funds on NSE and BSE through a broker.

Active Role in Corporate Governance

SEBI has directed equity mutual funds to reveal in their Annual Reports, what they did in each vote they were required to exercise in governance matters like appointment and removal of directors, management compensation, change in capital structure, merger, and other corporate restructuring etc. It is an important step because the interest of the unitholders is often associated with these matters. It will result in better accountability and transparency as well.

Direct Plan

With effect from January 1, 2013, mutual fund schemes have two plans: 'Direct Plan' and 'Regular Plan'. Before this, only 'Regular Plan' was there where investors have to pay more in the form of commission, brokerage etc. But with the introduction of the 'Direct Plan', the investors do not have to pay commission, brokerage etc. As a result, the expense ratio of 'Direct Plan' will be lower than that of 'Regular Plan' and accordingly the return from 'Direct Plan' will be higher. It is a welcome move for knowledgeable and experienced investors who follow the 'Do It Yourself (DIY)' strategy.

Cash Transaction Limit

The regulator has enhanced the cash transaction limit from Rs. 20,000 to Rs. 50,000 for every investor for each mutual fund in each financial year. However, the provisions of the Prevention of Money Laundering Act, 2012 must be strictly adhered to (Circular No. CIR/IMD/DF/10/2014 dated May 22, 2014).

Product Labelling

The regulator has classified the risks associated with mutual fund schemes into the following five

categories: (i) Low Risk, (ii) Moderately Low Risk, (iii) Moderate Risk, (iv) Moderately High Risk and (v) High Risk. “Riskometer” associated with every scheme will indicate the risk level of that scheme (SEBI Circular No. CIR/IMD/DF/4/2015 dated April 30, 2015).

Unclaimed Redemption and Dividends

The regulator has directed that amount like unclaimed redemption and dividend must be transferred to a separate scheme. This can be either a liquid scheme or a Money Market Mutual Fund scheme. However, if an investor claims such an unclaimed amount within three years from the due date, then the investor will be entitled to both the principal unclaimed amount and the income earned on it. For investors claiming such an amount after three years from the due date, investors will be eligible for an amount equal to the principal unclaimed amount plus income earned on it for three years. In this case, the amount standing to the credit of the scheme after three years will be utilised for investor education (SEBI Circular No. SEBI/HO/IMD/DF2/CIR/2016/37 dated on February 25, 2016). The reason behind this move is to put a curb on mis-selling of mutual funds (Zachariah, 2016).

Categorization of Schemes

The regulator has decided to divide the mutual fund schemes into the following five categories: (i) Equity Schemes, (ii) Debt Schemes, (iii) Hybrid Schemes, (iv) Solution Oriented Schemes, and (v) Other Schemes (SEBI/HO/IMD/DF3/CIR/P/2017/114 dated October 6, 2017). The purpose of the regulator is to bring uniformity in practice by standardising the mutual fund schemes.

Green Initiative

To bring cost-effectiveness in disclosing and providing information to unitholders and as a green initiative measure, SEBI (vide Circular No. SEBI/HO/IMD/DF2/CIR/P/2018/92 dated June 05, 2018) has decided that MFs/AMCs shall prominently disclose the NAVs of all schemes under a separate head on their respective website and the website of AMFI.

Cyber Security and Cyber Resilience Framework

With rapid technological advancement in the securities market, there is a greater need for maintaining robust cyber-security and to have a cyber-resilience framework to protect the integrity of data and guard against breaches of privacy. As part of the operational risk management, the Mutual Funds/Asset Management Companies (AMCs) need to have a robust cyber-security and cyber-resilience framework. Based on the recommendation of SEBI’s High Powered Steering Committee-Cyber Security, it has been decided that the framework prescribed vide SEBI circular CIR/MRD/DP13/2015 dated July 06, 2015, on cyber-security and cyber-resilience also be made applicable to all Mutual Funds/AMC (SEBI/HO/IMD/DF2/CIR/P/2019/12 dated January 10, 2019).

System Audit Framework

The requirement of system audit for mutual funds was introduced vide SEBI Circular SEBI/IMD/CIR No.9/176988/2009 dated September 16, 2009. Considering the importance of systems audit in technology-driven asset management activity and to enhance and standardize the systems audit, SEBI (vide Circular No. SEBI/HO/IMD/DF2/CIR/P/2019/57 dated April 11, 2019) has issued revised guidelines in this regard which are indicative and not exhaustive. Mutual Funds/AMCs are advised to conduct systems audits on an annual basis by an independent CISA/CISM qualified or equivalent auditor to check compliance with the provisions of this circular.

Technology Committee for Mutual Funds/AMCs

The role of technology-related aspects has become more critical in managing risk related to the asset management business. To deal with various technology-related issues, SEBI has advised AMCs (vide Circular No. SEBI/HO/IMD/DF2/CIR/P/2019/058 dated April 11, 2019) to constitute a Technology Committee comprising experts proficient in technology. Such committee shall have at least one

independent external expert with adequate experience in technology in Mutual Fund Industry/BFSI. The committee shall review the cyber security and cyber resilience framework for Mutual Funds/AMCs.

Stewardship Code

The importance of institutional investors in capital markets across the world is increasing the world over. Such investors are expected to shoulder 'Stewardship Responsibilities' towards their clients/beneficiaries. 'Stewardship Responsibilities' are intended to protect the clients' wealth. Such increased engagement is also seen as an important step towards improved corporate governance in the investee companies and gives a greater fillip to the protection of the interest of investors in such companies. This code was scheduled to become operative from 01.04.2020. But due to the Covid-19 pandemic, SEBI has decided to make it operative from 01.07.2020.

Valuation of Money Market and Debt Securities

SEBI (vide Circular No. SEBI/HO/IMD/DF3/CIR/P/2020/70 dated 23.04.2020) has reviewed the provisions of valuation of money market and debt securities under the SEBI (Mutual Funds) Regulations, 1996 due to the COVID-19 pandemic and moratorium permitted by RBI. The valuation agencies appointed by AMFI recognize default of security as per SEBI Circular dated September 24, 2019. RBI (vide its Notification dated March 27, 2020) has allowed a three-month moratorium. Accordingly, if the valuation agencies appointed by AMFI are of the view that the delay in payment of interest or principal or extension of the maturity of security by the issuer has arisen solely due to COVID-19 pandemic lockdown or in light of the moratorium allowed by the RBI creating temporary operational challenges in servicing debt, then valuation agencies may not consider the same as a default for valuation of money market or debt securities held by Mutual Funds. This modification to circular dated September 24, 2019, shall be in force till the period of moratorium by the RBI.

Appointment of Auditor by the Trustees of Mutual Funds

This circular provides financial power to the trustees for appointing a professionally qualified independent person to function as an auditor of the AMC (SEBI/HO/IMD/DF4/CIR/P/2020/0000000151, Dated: Aug10, 2020)

Long Term Flexi Cap Fund

SEBI introduced a new category of scheme termed as "Flexi Cap Fund" which is an open-ended dynamic equity scheme where at least 65% of investment is in equity and equity-related instruments. The portfolio has a combination of large, mid, and small-cap stocks (SEBI/HO/IMD/DF3/CIR/P/2020/228 dated: 06/11/2020).

Inter Scheme Transfer

To reduce complexities SEBI has introduced Inter-scheme Transfer of securities. In partial modification of the modus operandi, SEBI has made it mandatory for the transfer of mutual fund units. Such transfers are done at the prevailing market price and transfer conforms with the investment objective of the scheme. To ensure that inter-scheme transfers conform with the objective SEBI has prescribed in case of close-ended schemes inter-scheme transfer purchase will be permitted within three business days of allotment to new fund offer. After the expiry of 3 business days no ISTs is permissible (SEBI/HO/IMD/DF4/CIR/P/2020/202 dated: 08/10/2020)

Guidelines With Regards to Trade Execution through Order Management System (OMS)

With regards to trade execution, the regulator has directed the AMCs to make use of an automated Order Management System (OMS) for placing orders of equity and equity-oriented instruments. Fund managers were provided with dedicated managers for the same. Dedicated managers working under fund managers were to assist them and following the OMS always was not compulsory. Powers were also assigned for appointing dealers for conducting the transactions. The audit was to be done for all types of transactions (SEBI/HO/IMD/DF2/CIR/P/2020/253, Dated: Dec 31, 2020).

COVID-19 and Franklin Templeton Crisis

The Covid-19 crisis caused panic amongst investors who tried to redeem units of mutual funds, particularly debt mutual funds. These behaviours of investors may have been induced due to volatility in capital markets. Six debt mutual fund schemes of Franklin Templeton AMC (Franklin India Low Duration Fund, Franklin India Ultra Short Bond Fund, Franklin India Short Term Income Plan, Franklin India Credit Risk Fund, Franklin India Dynamic Accrual Fund and Franklin India Income Opportunities Fund) came under pressure (Andrade, 2020).

Franklin's 'high yield approach' in credit management is responsible for the crisis. Post-2008-09 witnessed Franklin fund house go big on lower-rated bonds to pump the returns of its debt funds. If the markets were doing well, everything seemed to be fine with Franklin's debt funds. However, soon the risks started to materialise. A glimpse of this was visible in 2016, in the famous JSPL episode. After a series of downgrades of JSPL, Franklin Templeton decided to buy out the exposure on its books in tranches to protect the investors from losses. However, given the magnitude of the current situation, a similar option was not possible (Adajania, 2017). The lesson is that awareness is the key. Investors must learn from their mistakes and the regulator has a big role to play in investor awareness.

RBI came to the rescue of investors and announced a Special package of Rs. 50,000 crores on 27.04.2020. The intention was to provide funding concerning the crisis created on account of the winding up of the debt funds of Franklin Templeton. The sole objective was to supply money to the mutual funds. Another intention was to purchase investment-grade corporate papers held by mutual funds (Kansara, 2020).

To protect investors' interest, SEBI asked Franklin Templeton to stop the winding-up process. Further, SEBI directed that winding up may continue only if the unitholders of the schemes give their consent for winding up exercise. SEBI asked for repayment up to Rs. 2 lakhs to the investors. SEBI, on 20th May 2020, had issued a circular stating that listing on the stock exchange is mandatory for such schemes. But none of the schemes was listed. Investors said that SEBI should have put in place a 'regulatory mechanism for refunding investors' (Upadhyay, 2020a).

In response to the investor's petition, Madras High Court, on 26th May 2020, issued notices to Franklin Templeton Mutual Fund and SEBI. A Special Audit was also ordered after the initial assessment. It was further pointed out that certain investment of the funds was in contravention to the mutual fund's code of conduct. A report by Economic Times, Mumbai based, Chokshi and Chokshi LLP has been assigned to probe into the dealings of six mutual find schemes. SEBI asked the firm to submit a report in 30 days (Web Desk, 2020).

Franklin has issued e-voting notices for the six debt schemes that were scheduled between 9th and 11th June 2020. It was decided by FT that a meeting of unitholders for each of the schemes would be held on 12th June 2020 (Upadhyay, 2020b). The Gujrat High Court issued a stay order on the voting right of unitholders in connection with those six debt schemes, following a plea by Areez Pirozsha Khambatta, who is part of the business family that runs the popular Rasna juice brand. Apart from FT MF and FT Trustee, the plea has also made the SEBI and government respondents. According to experts, this could delay the winding-up process of monetising the scheme assets and distributing the pay-outs to investors (Kriplani, 2020).

Franklin Templeton's debacle caused panic amongst the investors. The fear of losing their hard-earned money during the Covid-19 crisis was especially observed in the debt mutual fund category. AMFI data revealed huge outflows for debt funds. Credit risk funds were the worst sufferer where total outflow exceeded Rs. 19,000 crores in April 2020 (Bazaz, 2020).

CONCLUSION

Mutual Fund Regulation should be balanced to ensure that mutual funds are properly managed to bring confidence among the investors and to make sure that the investors get accurate and adequate

information. SEBI (Mutual Fund) regulations, 1996 covered extensive areas like governance structure, disclosure requirements, the ceiling on expenses, investment constraints etc. AMFI undertake pan-India awareness programmes at regular intervals for the investors.

Effects of lockdown and slowdown of economies of the world have undermined investors' confidence. Investors' ecosystem across the globe is largely affected as various stakeholders like consumers, regulators, distributors, and manufacturers face the pangs of a global slowdown of economic activities.

With markets slowly gaining momentum on the back of gradual resumption of economic activities, fiscal stimulus from the Centre and rising FPI flows following the novel coronavirus pandemic-induced slump, investors are looking to make the most of this opportunity to recover their recent losses. It is an opportune time for mutual fund investors to reassess their current portfolios and rejig their strategies. Every cloud has a silver lining. Similarly, future investors may get an opportunity to take advantage of market developments to diversify their corpus for achieving their financial goals.

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